

**AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION
ORDER BY CONSENT
ISSUED TO
GRAPHIC PACKAGING CORPORATION of Virginia
Registration No. 50949**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1309 and §10.1-1316, between the Air Pollution Control Board and Graphic Packaging Corporation of Virginia, for the purpose of resolving certain alleged violations of environmental law and/or regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Order.
6. “Graphic Packaging ” means Graphic Packaging Corporation of Virginia, certified to do business in Virginia.

7. “Facility” means the Graphic Packaging Corporation plant located at 4500 Sarellen Road located in Richmond, Virginia.
8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “Permit” means the Construct and Operate permit issued to Graphic Packaging, which became effective December 21, 2001.
10. “O&M” means operations and maintenance.
11. “VOC” means Volatile Organic Compounds.

SECTION C: Findings of Fact and Conclusions of Law

1. Graphic Packaging owns and operates a Rotogravure printing facility in Richmond, Virginia. Condition 3 of the Permit specifies VOC emissions from Presses 1, 2, and 3 to be controlled by a 100% efficient permanent total enclosure and carbon adsorption system having an overall control efficiency of 92%.
2. By letter dated June 20, 2002, Graphic Packaging notified PRO of an alleged excursion from the 92% collection efficiency for presses 1, 2, and 3. In the letter, Graphic Packaging also identified the alleged cause for the lower efficiency and emission levels as being the introduction of a new product and associated ink.
3. PRO requested additional information on September 23, 2002, which was received on September 30, 2002. Based on analysis of this information, PRO staff has reason to believe that Graphic Packaging may be in violation of Air Pollution Control Law and regulations. These alleged violations were noted in a Notice of Violation DEQ (11-02-PRO-401) issued on November 22, 2002:
 - Graphic Packaging reported the carbon adsorption system achieved less than 92% overall control efficiency for February, March, April, September, November and December in calendar year 2001 and January, February, March and April in calendar year 2002. This is an alleged violation of 9 VAC 5-80-10 H and 9 VAC 5-50-260 of the Regulation for the Control and Abatement of Air Pollution and §10.1-1308 of the Code of Virginia.
 - The analysis also indicates Graphic Packaging allegedly exceeded the 54.0 tons per year Volatile Organic Compound emission limit required in Condition 29 of the permit for March, April, May, June, July and August in calendar year 2002. This is a alleged violation of 9 VAC 5-50-260 and 9 VAC 5-50-180 of the Regulations for the Control and Abatement of Air Pollution and §10.1-1308 of the Code of Virginia.

4. Graphic Packaging has corrected many of the issues cited in the Notice of Violation by implementing the following corrective actions:
 - a. Evaluated the applicability of using water-based ink for the new product that would result in lower VOC emissions during the printing operation.
 - b. Halted printing operations of presses 2 and 3 when printing the new product with the current higher solvent-based inks.
 - c. Reevaluated the entire material balance procedures and corrected any actions and recordation practices that could result in inaccurate accounting of raw materials used within the printing processes and support operations.
5. Graphic Packaging is working with DEQ staff to evaluate the potential for reducing VOC emissions from presses 1, 2 and 3 through the installation of additional controls or replacing the current control system with another system with a higher control efficiency.

SECTION D: Agreement and Order

Accordingly, the State Air Pollution Control Board, by virtue of the authority granted it in Va. Code §10.1-1316(C), orders Graphic Packaging, and Graphic Packaging agrees, to perform the actions described in Appendices A and B of this Order. In addition, the Board orders Graphic Packaging, and Graphic Packaging voluntarily agrees, to pay a civil charge of \$26,900 within 60 days of the effective date of the Order in settlement of the violations cited in this Order.

1. \$6,725 of this civil charge shall be paid within 60 days of the effective date of this Order. Payment must indicate that the civil charge is pursuant to the Graphic Packaging Order, Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of the Commonwealth of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Payment shall include the Federal Tax Identification Number for the facility.

2. \$20,175 of this civil charge shall be satisfied upon completion by Graphic Packaging of a Supplemental Environmental Project (SEP) pursuant to Virginia Code 10.1-1186.2 and as described in Appendix B of this Order.
3. In the event that the SEP is not performed as described in Appendix B, upon notification by the Department, Graphic Packaging shall pay the amount specified in Paragraph 2

above within 60 days of such notification according to the procedures specified in Paragraph 1 above, unless an alternate project or schedule has been agreed upon by the parties.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Graphic Packaging, for good cause shown by Graphic Packaging, or on its own motion after notice and opportunity to be heard.
2. This Order addresses and resolves those alleged violations specifically identified herein or reported to the Department as of the date of this Order, including those matters addressed in the Notice of Violation issued to Graphic Packaging by on November 22, 2002. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Graphic Packaging admits the jurisdictional allegations, factual findings, and conclusions of law contained herein. In entering into this Order, Graphic Packaging admits no violation of environmental law and/or regulations.
4. Graphic Packaging consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Graphic Packaging declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Graphic Packaging to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Graphic Packaging shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Graphic Packaging shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Graphic Packaging shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Graphic Packaging.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Graphic Packaging. Graphic Packaging may request that the Director terminate the order after completion of the requirements of Section D. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Graphic Packaging from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Graphic Packaging voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2003.

Robert G. Burnley, Director
Department of Environmental Quality

Graphic Packaging voluntarily agrees to the issuance of this Order.

By: _____
Brett D. Hawkins, Director of Operations

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this ____ day of _____, 2003, by _____, who is
(name)

_____ of Graphic Packaging, on behalf of the Corporation.
(title)

Notary Public

My commission expires: _____.

APPENDIX A

Graphic Packaging shall:

1. Submit a complete permit application within 30 days from the execution of this Order to the Department.
2. Replacement of the carbon adsorption system having an overall control efficiency of 92% for Presses 1, 2 & 3 with a Regenerative Thermal Oxidizer having an overall control efficiency of 97%. The requirement for Presses 1, 2 & 3 to be controlled by a 100% efficiency permanent total enclosure shall be maintained.
3. The activated carbon adsorption unit for presses 1, 2, and 3 shall be operated in a manner to minimize VOC emissions until start-up of the RTO.
4. Within 30 days from the execution of this Order submit to the Department the following information:
 - a. Final approvable plans for the installation and operation of the RTO;
 - b. The date the contracts for the installation of the RTO are awarded and for the purchase of the RTO;
 - c. The date on-site construction for the installation of the RTO will begin;
 - d. The date construction of the RTO will be completed;
5. In no event shall start-up of the RTO exceed November 30, 2003.

APPENDIX B

1. The Supplemental Environmental Project to be performed by Graphic Packaging is the replacement of the VOC control for Presses 1, 2 & 3 with a Regenerative Thermal Oxidizer having an overall control efficiency of 97%.
2. The cost of the SEP to Graphic Packaging shall not be less than \$20,175. In the event that the final cost of the SEP is less than this amount, Graphic Packaging shall pay the remainder of the amount within 30 days of notification to the Commonwealth of Virginia, unless other wise agreed to by the Department.
3. Graphic Packaging acknowledges that it is solely responsible for completion of the SEP project. No delegation of funds, tasks, or otherwise by Graphic Packaging to a third party, shall not relieve Graphic Packaging of its responsibility of completing the SEP as contained in this Order.
4. Graphic Packaging shall submit within 60 days of execution of this order an approvable plan and schedule for construction and operation of the RTO.
5. Graphic Packaging shall provide the Department within 10 days of start-up of the RTO, a start-up notification letter. This start-up notification letter shall serve as the project completion date.
6. Graphic Packaging shall submit verification to the Department in the form of a notarized letter of the final overall cost of the SEP within 30 days of the project completion date.
7. In the event that Graphic Packaging publicizes the SEP or the results of the SEP, Graphic Packaging shall state in a prominent manner the project is part of a settlement for an enforcement action.
8. The Department has the sole discretion to determine whether the SEP has been completed in a satisfactory manner.
9. Pursuant to this Order communications regarding this Order and its requirements shall be addressed as follows:

Charles King
Department of environmental Quality
Piedmont regional Office
4949-A Cox Road
Glen Allen, VA 23060